



General Assembly

January Session, 2013

## ***Amendment***

LCO No. 7344

**\*HB0635607344HD0\***

Offered by:

REP. HADDAD, 54<sup>th</sup> Dist.

REP. PERONE, 137<sup>th</sup> Dist.

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To: Subst. House Bill No. 6356

File No. 661

Cal. No. 453

### ***"AN ACT CONCERNING BENEFIT CORPORATIONS AND ENCOURAGING SOCIAL ENTERPRISE."***

1 Strike everything after the enacting clause and substitute the  
2 following in lieu thereof:

3 "Section 1. (NEW) (*Effective October 1, 2013*) Sections 1 to 15,  
4 inclusive, of this act shall be known and may be cited as the  
5 "Connecticut Benefit Corporation Act".

6 Sec. 2. (NEW) (*Effective October 1, 2013*) (a) Sections 1 to 15, inclusive,  
7 of this act shall be applicable to all benefit corporations.

8 (b) The existence of a provision of sections 1 to 15, inclusive, of this  
9 act shall not of itself create an implication that a contrary or different  
10 rule of law is applicable to a business corporation that is not a benefit  
11 corporation. The provisions of sections 1 to 15, inclusive, of this act  
12 shall not affect a statute or rule of law that is applicable to a business

13 corporation that is not a benefit corporation.

14 (c) Except as otherwise provided in sections 1 to 15, inclusive, of this  
15 act, the provisions of chapter 601 of the general statutes shall be  
16 generally applicable to all benefit corporations. The specific provisions  
17 of sections 1 to 15, inclusive, of this act shall control over the general  
18 provisions of chapter 601 of the general statutes.

19 (d) A provision of the certificate of incorporation or bylaws of a  
20 benefit corporation may not limit, be inconsistent with, or supersede a  
21 provision of sections 1 to 15, inclusive, of this act.

22 (e) Nothing in sections 1 to 15, inclusive, of this act shall (1) be  
23 construed as creating or granting to any person any contractual right  
24 to, or proprietary interest in, the income or assets of the benefit  
25 corporation by virtue of the fact that he or she may directly or  
26 indirectly benefit from the general public benefit or any specific public  
27 benefit of a benefit corporation, (2) be construed as imposing or  
28 creating a charitable use, interest or restriction on any property or  
29 assets of a benefit corporation, or (3) deprive the Attorney General of  
30 jurisdiction over a benefit corporation under any other applicable law.

31 Sec. 3. (NEW) (*Effective October 1, 2013*) As used in sections 1 to 15,  
32 inclusive, of this act:

33 (1) "Benefit corporation" means a business corporation (A) that has  
34 elected to become subject to the provisions of sections 1 to 15,  
35 inclusive, of this act, and (B) whose status as a benefit corporation has  
36 not been terminated pursuant to section 7 of this act.

37 (2) "Benefit director" means either (A) the director designated as the  
38 benefit director of a benefit corporation pursuant to section 10 of this  
39 act, or (B) if a shareholder agreement of a benefit corporation  
40 eliminates the board of directors or transfers to one or more  
41 shareholders or other persons all or part of the authority to exercise  
42 corporate powers or to manage the business and affairs of the  
43 corporation, a person with one or more of the powers, duties or rights

44 of a benefit director under section 10 of this act as provided in such  
45 shareholder agreement.

46 (3) "Benefit enforcement proceeding" means any claim or action for  
47 (A) the failure of a benefit corporation to pursue or create a general  
48 public benefit or any specific public benefit purpose set forth in its  
49 certificate of incorporation, or (B) the violation of any obligation, duty  
50 or standard of conduct under sections 1 to 15, inclusive, of this act.

51 (4) "Benefit officer" means the individual designated as the benefit  
52 officer of a benefit corporation pursuant to section 12 of this act.

53 (5) "Business corporation" means a corporation whose internal  
54 affairs are governed by chapter 601 of the general statutes.

55 (6) "Charitable organization" means any organization organized for  
56 charitable, scientific or educational purposes that has been issued a  
57 ruling by the Internal Revenue Service classifying it as an exempt  
58 organization under Section 501(c)(3) of the Internal Revenue Code of  
59 1986, or any subsequent corresponding internal revenue code of the  
60 United States, as amended from time to time.

61 (7) "General public benefit" means a material positive impact on  
62 society and the environment, taken as a whole, as assessed against a  
63 third-party standard, from the business and operations of a benefit  
64 corporation.

65 (8) "Independent" means having no material relationship with a  
66 benefit corporation or a subsidiary of the benefit corporation, provided  
67 a person who serves as a benefit director or benefit officer does not  
68 lack independence solely by serving in such capacity.

69 (9) "Legacy preservation provision" means a provision enacted  
70 pursuant to section 7 of this act providing that a benefit corporation  
71 (A) shall, upon dissolution, distribute its assets to one or more  
72 charitable organizations or benefit corporations that have enacted such  
73 provision, and (B) may not otherwise terminate its status as a benefit

74 corporation.

75 (10) "Material relationship" means a relationship between a person  
76 and a benefit corporation or any of its subsidiaries if any of the  
77 following apply: (A) The person is, or has been within the last three  
78 years, an employee other than a benefit officer of the benefit  
79 corporation or a subsidiary; (B) an immediate family member of the  
80 person is, or has been within the last three years, an executive officer  
81 other than a benefit officer of the benefit corporation or a subsidiary; or  
82 (C) there is beneficial or record ownership of five per cent or more of  
83 the outstanding shares of the benefit corporation, calculated as if all  
84 outstanding rights to acquire shares in the benefit corporation had  
85 been exercised, by (i) the person, or (ii) an entity (I) of which the  
86 person is a director, an officer or a manager; or (II) in which the person  
87 owns beneficially or of record five per cent or more of the outstanding  
88 equity interests, calculated as if all outstanding rights to acquire equity  
89 interests in the entity had been exercised.

90 (11) "Minimum status vote" means (A) in the case of a business  
91 corporation, in addition to any other required approval or vote, the  
92 satisfaction of the following conditions: (i) The shareholders of every  
93 class or series shall be entitled to vote as a separate voting group on  
94 the corporate action regardless of a limitation stated in the certificate of  
95 incorporation or bylaws on the voting rights of any class or series; and  
96 (ii) the corporate action is approved by the vote of shareholders of each  
97 class or series entitled to cast at least two-thirds of the votes that  
98 shareholders of the class or series are entitled to cast on the action; and  
99 (B) in the case of a domestic entity other than a business corporation, in  
100 addition to any other required approval, vote or consent, the  
101 satisfaction of the following conditions: (i) The holders of each class or  
102 series of equity interest in the entity that are entitled to receive a  
103 distribution of any kind from the entity shall be entitled to vote on or  
104 consent to the action regardless of any otherwise applicable limitation  
105 on the voting or consent rights of any such class or series; and (ii) the  
106 action is approved by the vote or written consent of the holders

107 described in subparagraph (B)(i) of this subdivision entitled to cast at  
108 least two-thirds of the votes that all of those holders are entitled to cast  
109 on the action.

110 (12) "Publicly traded corporation" means a business corporation that  
111 has shares listed on a national securities exchange or traded in a  
112 market maintained by one or more members of a national securities  
113 association.

114 (13) "Specific public benefit" includes, without limitation: (A)  
115 Providing low-income or underserved individuals or communities  
116 with beneficial products or services; (B) promoting economic  
117 opportunity for individuals or communities beyond the creation of  
118 jobs in the normal course of business; (C) protecting or restoring the  
119 environment; (D) improving human health; (E) promoting the arts,  
120 sciences or advancement of knowledge; (F) increasing the flow of  
121 capital to other benefit corporations or similar entities whose purpose  
122 is to benefit society or the environment; and (G) conferring any other  
123 particular benefit on society or the environment.

124 (14) "Subsidiary" means, in relation to a person, an entity in which  
125 the person owns beneficially or of record fifty per cent or more of the  
126 outstanding equity interests.

127 (15) "Third-party standard" means a recognized standard for  
128 defining, reporting and assessing corporate social and environmental  
129 performance that is (A) comprehensive because the standard assesses  
130 the effect of its business and operations upon the interests listed in  
131 subparagraphs (B), (C), (D) and (E) of subdivision (1) of subsection (a)  
132 of section 9 of this act; (B) developed by an entity that is independent;  
133 and (C) transparent because the following information is publicly  
134 available about the development and revision of the standard: (i) The  
135 identity of the directors, officers, material owners, and the governing  
136 body of the entity that developed and controls revisions to the  
137 standard; (ii) the process by which revisions to the standard and  
138 changes to the membership of the governing body are made; and (iii)

139 an accounting of the revenue and sources of financial support for the  
140 entity, with sufficient detail to disclose any relationships that could  
141 reasonably be considered to present a potential conflict of interest.

142 Sec. 4. (NEW) (*Effective October 1, 2013*) A benefit corporation shall  
143 be incorporated in accordance with the provisions of chapter 601 of the  
144 general statutes by filing its certificate of incorporation with the office  
145 of the Secretary of the State and such certificate of incorporation shall  
146 state that the corporation is a benefit corporation.

147 Sec. 5. (NEW) (*Effective October 1, 2013*) (a) A business corporation  
148 that was not formed as a benefit corporation may elect to become a  
149 benefit corporation by amending its certificate of incorporation so that  
150 such certificate contains, in addition to matters required by section 33-  
151 636 of the general statutes, a statement that the corporation is a benefit  
152 corporation. Any such amendment to the certificate of incorporation  
153 shall be approved by a minimum status vote.

154 (b) If an entity that is not a benefit corporation is a party to (1) a  
155 merger in which (A) the surviving entity will be a benefit corporation,  
156 or (B) shares or other equity interests in such entity will be converted  
157 into a right to receive shares of a benefit corporation, or (2) a share  
158 exchange with a benefit corporation in which the shares or other  
159 equity interests of the entity will be exchanged for shares of a benefit  
160 corporation, the plan of merger or share exchange shall be approved  
161 by a minimum status vote. If an entity other than a business  
162 corporation is a party to any of the foregoing transactions and a  
163 minimum status vote by the equity owners of such entity is required  
164 for approval of the transaction, the equity owners of such entity shall  
165 be entitled to appraisal rights under the procedures set forth in chapter  
166 601 of the general statutes as if the entity were a business corporation.

167 Sec. 6. (NEW) (*Effective October 1, 2013*) (a) A benefit corporation  
168 may, after not less than twenty-four months from the date that it  
169 became a benefit corporation, enact a legacy preservation provision by  
170 amending its certificate of incorporation so that such certificate

171 contains a statement that the corporation is subject to a legacy  
172 preservation provision. Any such amendment shall be adopted in  
173 accordance with the procedures set forth in chapter 601 of the general  
174 statutes and shall be approved by the unanimous vote or written  
175 consent of the shareholders of every class or series, regardless of a  
176 limitation stated in the certificate of incorporation or bylaws on the  
177 voting rights of any such class or series.

178 (b) Notwithstanding the provisions of chapter 601 of the general  
179 statutes, a benefit corporation that has adopted a legacy preservation  
180 provision and is dissolved and has liquidated its assets shall (1)  
181 discharge, or make adequate provision for, its liabilities, and (2)  
182 distribute its remaining properties only to one or more charitable  
183 organizations or other benefit corporations that have enacted a legacy  
184 preservation provision.

185 Sec. 7. (NEW) (*Effective October 1, 2013*) (a) Except for a benefit  
186 corporation that has enacted a legacy preservation provision, a benefit  
187 corporation may terminate its status as such and cease to be subject to  
188 the provisions of sections 1 to 15, inclusive, of this act by amending its  
189 certificate of incorporation to delete any provision stating that such  
190 corporation is a benefit corporation. Any such amendment shall be  
191 approved by a minimum status vote.

192 (b) Except for a benefit corporation that has enacted a legacy  
193 preservation provision, if a benefit corporation is a party to (1) a  
194 merger in which (A) the surviving entity will not be a benefit  
195 corporation, or (B) shares of such benefit corporation will be converted  
196 into a right to receive shares or other equity interests of an entity that is  
197 not a benefit corporation, or (2) a share exchange in which the shares of  
198 the benefit corporation will be exchanged for shares or other equity  
199 interests of an entity that is not a benefit corporation, the plan of  
200 merger or share exchange shall be approved by a minimum status  
201 vote.

202 (c) A benefit corporation that has enacted a legacy preservation

203 provision may only be a party to (1) a merger in which (A) the  
204 surviving entity will be a benefit corporation that has adopted a legacy  
205 preservation provision, or (B) shares of such benefit corporation will be  
206 converted into a right to receive shares of a benefit corporation that has  
207 adopted a legacy preservation provision, or (2) a share exchange in  
208 which the shares of the benefit corporation will be exchanged for  
209 shares of a benefit corporation that has adopted a legacy preservation  
210 provision, and such merger or share exchange is approved by a  
211 minimum status vote.

212 (d) Except for a benefit corporation that has enacted a legacy  
213 preservation provision, any sale, lease, exchange or other disposition  
214 of assets of a benefit corporation, other than a disposition described in  
215 section 33-830 of the general statutes, that would leave the benefit  
216 corporation without a significant continuing business activity shall be  
217 approved by a minimum status vote. A benefit corporation that has  
218 enacted a legacy preservation provision shall not enter into a sale,  
219 lease, exchange or other disposition of its assets, other than a  
220 disposition described in section 33-830 of the general statutes, unless  
221 the disposition is to one or more charitable organizations or other  
222 benefit corporations that have enacted legacy preservation provisions,  
223 and such disposition is approved by a minimum status vote.

224 Sec. 8. (NEW) (*Effective October 1, 2013*) (a) A benefit corporation  
225 shall have a purpose of creating a general public benefit. This purpose  
226 is in addition to its purposes under chapter 601 of the general statutes.

227 (b) The certificate of incorporation of a benefit corporation may  
228 identify one or more specific public benefits that it is the purpose of the  
229 benefit corporation to create in addition to its purposes under chapter  
230 601 of the general statutes and subsection (a) of this section. The  
231 identification of a specific public benefit under this subsection shall not  
232 limit the obligation of a benefit corporation under subsection (a) of this  
233 section.

234 (c) The creation of a general public benefit and any specific public



235 benefit under subsections (a) and (b) of this section is in the best  
236 interests of the benefit corporation.

237 (d) A benefit corporation may amend its certificate of incorporation  
238 to add, amend or delete the identification of a specific public benefit  
239 that it is the purpose of the benefit corporation to create. Any such  
240 amendment shall be adopted by a minimum status vote.

241 Sec. 9. (NEW) (*Effective October 1, 2013*) (a) In discharging the duties  
242 of their respective positions and considering the best interests of the  
243 benefit corporation, the board of directors, any committee of the board  
244 and the directors of a benefit corporation:

245 (1) Shall consider the effects of any corporate action upon:

246 (A) The shareholders of the benefit corporation;

247 (B) The employees and workforce of the benefit corporation, its  
248 subsidiaries and its suppliers;

249 (C) The interests of the customers of the benefit corporation as  
250 beneficiaries of the general public benefit purpose and any specific  
251 public benefit purpose of the benefit corporation;

252 (D) Community and societal factors, including those of each  
253 community in which offices or facilities of the benefit corporation, its  
254 subsidiaries or its suppliers are located;

255 (E) The local and global environment;

256 (F) The short-term and long-term interests of the benefit  
257 corporation, including benefits that may accrue to the benefit  
258 corporation from its long-term plans and the possibility that these  
259 interests may be best served by the continued independence of the  
260 benefit corporation; and

261 (G) The ability of the benefit corporation to accomplish its general  
262 public benefit purpose and any specific public benefit purpose;

263 (2) May consider (A) in the circumstances described in subsection  
264 (d) of section 33-756 of the general statutes, the interests referred to in  
265 said subsection, and (B) other pertinent factors or the interests of any  
266 other group that they deem appropriate; and

267 (3) Need not give priority to the interests of a particular person or  
268 group referred to in subdivision (1) or (2) of this subsection over the  
269 interests of any other person or group unless the benefit corporation  
270 has stated in its certificate of incorporation its intention to give priority  
271 to certain interests related to the accomplishment of its general public  
272 benefit purpose or of a specific public benefit purpose identified in its  
273 certificate of incorporation.

274 (b) The consideration of interests and factors in the manner required  
275 by subsection (a) of this section (1) shall not constitute a violation of  
276 section 33-756 of the general statutes, and (2) is in addition to the  
277 power of directors to consider the interests and factors referred to in  
278 subsection (d) of section 33-756 of the general statutes in the  
279 circumstances described in said subsection.

280 (c) A director shall not be personally liable for (1) any act or  
281 omission in the course of performing the duties of a director under  
282 subsection (a) of this section if the director performed the duties of the  
283 position in compliance with section 33-756 of the general statutes and  
284 this section; or (2) failure of the benefit corporation to pursue or create  
285 a general public benefit or any specific public benefit.

286 (d) A director shall not have a duty to a person who is a beneficiary  
287 of the general public benefit purpose or a specific public benefit  
288 purpose of a benefit corporation arising from the status of the person  
289 as a beneficiary.

290 Sec. 10. (NEW) (*Effective October 1, 2013*) (a) The board of directors of  
291 a benefit corporation that is a publicly traded corporation shall, and  
292 the board of any other benefit corporation may, include a director who  
293 shall (1) be designated the benefit director, and (2) have, in addition to

294 the powers, duties, rights and immunities of the other directors of the  
295 benefit corporation, the powers, duties, rights and immunities  
296 provided in sections 9 to 13, inclusive, of this act.

297 (b) The benefit director shall be elected, and may be removed, in the  
298 manner provided under chapter 601 of the general statutes. The benefit  
299 director shall be an individual who is independent. The benefit  
300 director may serve as the benefit officer at the same time as serving as  
301 the benefit director. The certificate of incorporation or bylaws or a  
302 shareholder agreement of a benefit corporation may prescribe  
303 additional qualifications of the benefit director not inconsistent with  
304 this subsection.

305 (c) The benefit director shall prepare, and the benefit corporation  
306 shall include in the annual benefit report to its shareholders required  
307 by section 14 of this act, the opinion of the benefit director on all of the  
308 following: (1) Whether the benefit corporation acted in accordance  
309 with its general public benefit purpose and any specific public benefit  
310 purpose in all material respects during the period covered by the  
311 report, (2) whether the directors and officers complied with subsection  
312 (a) of section 9 of this act and subsection (a) of section 11 of this act,  
313 respectively, and (3) if, in the opinion of the benefit director, the benefit  
314 corporation or its directors or officers failed to comply with subsection  
315 (a) of section 9 of this act or subsection (a) of section 11 of this act, a  
316 description of the ways in which the benefit corporation or its directors  
317 or officers failed to comply.

318 (d) The act or omission of an individual in the capacity of a benefit  
319 director shall constitute for all purposes an act or omission of that  
320 individual in the capacity of a director of the benefit corporation.

321 (e) Regardless of whether the certificate of incorporation of a benefit  
322 corporation includes a provision limiting the personal liability of  
323 directors, as authorized by chapter 601 of the general statutes, a benefit  
324 director shall not be personally liable for any act or omission in the  
325 capacity of a benefit director unless the act or omission constitutes self-

326 dealing, wilful misconduct or a knowing violation of law.

327 Sec. 11. (NEW) (*Effective October 1, 2013*) (a) Each officer of a benefit  
328 corporation shall consider the interests and factors described in  
329 subsection (a) of section 9 of this act in the manner provided in that  
330 subsection if (1) the officer has discretion to act with respect to a  
331 matter, and (2) it reasonably appears to the officer that the matter may  
332 have a material effect on the creation by the benefit corporation of a  
333 general public benefit or any specific public benefit identified in the  
334 certificate of incorporation of the benefit corporation.

335 (b) The consideration of interests and factors in the manner  
336 described in subsection (a) of this section shall not constitute a  
337 violation of section 33-765 of the general statutes.

338 (c) An officer shall not be personally liable for (1) an act or omission  
339 as an officer in the course of performing the duties of an officer under  
340 subsection (a) of this section if the officer performed the duties of the  
341 position in compliance with section 33-765 of the general statutes and  
342 this section, or (2) the failure of the benefit corporation to pursue or  
343 create a general public benefit or any specific public benefit.

344 (d) An officer shall not have a duty to a person that is a beneficiary  
345 of the general public benefit purpose or any specific public benefit  
346 purpose of a benefit corporation arising from the status of the person  
347 as a beneficiary.

348 Sec. 12. (NEW) (*Effective October 1, 2013*) A benefit corporation may  
349 designate a benefit officer. A benefit officer shall have (1) the powers  
350 and duties relating to the purpose of the corporation to create a general  
351 public benefit or any specific public benefit provided (A) by the  
352 bylaws, or (B) absent controlling provisions in the bylaws, by  
353 resolutions or orders of the board of directors; and (2) the duty to  
354 prepare the benefit report required by section 14 of this act.

355 Sec. 13. (NEW) (*Effective October 1, 2013*) (a) Except in a benefit  
356 enforcement proceeding, no person may bring an action or assert a

357 claim against a benefit corporation or its directors or officers with  
358 respect to (1) the failure to pursue or create a general public benefit or  
359 any specific public benefit identified in its certificate of incorporation,  
360 or (2) the violation of an obligation, duty or standard of conduct under  
361 sections 1 to 15, inclusive, of this act.

362 (b) A benefit corporation shall not be liable for monetary damages  
363 under sections 1 to 15, inclusive, of this act for any failure of the benefit  
364 corporation to pursue or create a general public benefit or any specific  
365 public benefit.

366 (c) A benefit enforcement proceeding may be commenced or  
367 maintained only (1) directly by the benefit corporation, or (2)  
368 derivatively in accordance with the provisions of chapter 601 of the  
369 general statutes by (A) a person or group of persons that owns  
370 beneficially or of record at least five per cent of the total number of  
371 shares of all classes and series outstanding on the date the benefit  
372 enforcement proceeding is commenced, (B) a person or group of  
373 persons that owns beneficially or of record ten per cent or more of the  
374 outstanding equity interests in an entity of which the benefit  
375 corporation is a majority-owned subsidiary, or (C) other persons as  
376 specified in the certificate of incorporation or bylaws of the benefit  
377 corporation.

378 (d) For purposes of this section, a person is the beneficial owner of  
379 shares or equity interests if the shares or equity interests are held in a  
380 voting trust or by a nominee on behalf of the beneficial owner.

381 Sec. 14. (NEW) (*Effective October 1, 2013*) (a) A benefit corporation  
382 shall select a third-party standard by which to assess its pursuit of a  
383 general public benefit and any specific public benefit. Selecting or  
384 changing a third-party standard shall require approval by (1) the  
385 greater of (A) a majority of all the directors in office when the action is  
386 taken, or (B) the number of directors required by the certificate of  
387 incorporation or bylaws of the benefit corporation to take action under  
388 this section; or (2) the vote or written consent of the shareholders

389 required by the certificate of incorporation or bylaws of the benefit  
390 corporation to take action under this section.

391 (b) A benefit corporation shall prepare an annual benefit report  
392 including all of the following:

393 (1) A narrative description of (A) the ways in which the benefit  
394 corporation pursued a general public benefit during the year and the  
395 extent to which a general public benefit was created; (B) both (i) the  
396 ways in which the benefit corporation pursued a specific public benefit  
397 that the certificate of incorporation states it is the purpose of the  
398 benefit corporation to create, and (ii) the extent to which such specific  
399 public benefit was created; (C) any circumstances that have hindered  
400 the creation by the benefit corporation of a general public benefit or  
401 any specific public benefit; and (D) the process and rationale for  
402 selecting or changing the third-party standard used to prepare the  
403 benefit report;

404 (2) An assessment of the overall social and environmental  
405 performance of the benefit corporation against a third-party standard  
406 (A) applied consistently with any application of that standard in prior  
407 benefit reports, or (B) accompanied by an explanation of the reasons  
408 for any inconsistent application or the change to that standard from  
409 the one used in the most recent prior report;

410 (3) The name of the benefit director and the benefit officer, if any,  
411 and the address to which correspondence to each of them may be  
412 directed;

413 (4) The compensation paid by the benefit corporation during the  
414 year to each director in his or her capacity as a director;

415 (5) The opinion of the benefit director described in subsection (c) of  
416 section 10 of this act;

417 (6) A statement of any connection between the organization that  
418 established the third-party standard, or its directors, officers or any

419 holder of five per cent or more of the voting power or capital interests  
420 in the organization, and the benefit corporation or its directors, officers  
421 or any holder of five per cent or more of the outstanding shares of the  
422 benefit corporation, including any financial or governance relationship  
423 that might materially affect the credibility of the use of the third-party  
424 standard; and

425 (7) If a shareholder agreement eliminates the board of directors or  
426 transfers to one or more shareholders or other persons all or part of the  
427 authority to exercise corporate powers or to manage the business and  
428 affairs of the corporation, a description of (A) the persons who exercise  
429 the powers, duties and rights and who have the immunities of the  
430 board of directors, and (B) the name of the person, if any, who is  
431 vested with the powers, duties, rights and immunities of a benefit  
432 director.

433 (d) If, during the year covered by a benefit report, a benefit director  
434 or benefit officer resigned from or refused to stand for reelection to the  
435 position of benefit director or benefit officer, or was removed from the  
436 position of benefit director or benefit officer, and the benefit director or  
437 benefit officer furnished the benefit corporation with a written  
438 statement or correspondence concerning the circumstances  
439 surrounding the resignation, refusal or removal, the benefit report  
440 shall include that correspondence as an exhibit.

441 (e) Neither the benefit report nor the assessment of the performance  
442 of the benefit corporation in the benefit report required by subdivision  
443 (2) of subsection (b) of this section must be audited or certified by the  
444 third-party standards provider.

445 Sec. 15. (NEW) (*Effective October 1, 2013*) (a) A benefit corporation  
446 shall send its annual benefit report to each shareholder (1) not later  
447 than one hundred twenty days following the end of the fiscal year of  
448 the benefit corporation, or (2) at the same time that the benefit  
449 corporation delivers any other annual report to its shareholders,  
450 whichever is earlier.

451 (b) A benefit corporation shall post and maintain each annual  
452 benefit report on the public portion of its Internet web site, if any, but  
453 the compensation paid to directors and any financial, confidential or  
454 proprietary information included in any benefit report may be omitted  
455 from the benefit report as posted.

456 (c) If a benefit corporation does not have an Internet web site, the  
457 benefit corporation shall provide a copy of its most recent benefit  
458 report, without charge, to any person who requests a copy, but the  
459 compensation paid to directors and any financial, confidential or  
460 proprietary information included in any benefit report may be omitted  
461 from such copy.

462 Sec. 16. Section 33-856 of the general statutes is repealed and the  
463 following is substituted in lieu thereof (*Effective October 1, 2013*):

464 (a) A shareholder is entitled to appraisal rights, and to obtain  
465 payment of the fair value of that shareholder's shares, in the event of  
466 any of the following corporate actions:

467 (1) Consummation of a merger to which the corporation is a party  
468 (A) if shareholder approval is required for the merger by section 33-  
469 817 and the shareholder is entitled to vote on the merger, except that  
470 appraisal rights shall not be available to any shareholder of the  
471 corporation with respect to shares of any class or series that remain  
472 outstanding after consummation of the merger, or (B) if the  
473 corporation is a subsidiary and the merger is governed by section 33-  
474 818;

475 (2) Consummation of a share exchange to which the corporation is a  
476 party as the corporation whose shares will be acquired, if the  
477 shareholder is entitled to vote on the exchange, except that appraisal  
478 rights shall not be available to any shareholder of the corporation with  
479 respect to any class or series of shares of the corporation that is not  
480 exchanged;

481 (3) Consummation of a disposition of assets pursuant to section 33-



482 831 if the shareholder is entitled to vote on the disposition, except that  
483 appraisal rights shall not be available to any shareholder of the  
484 corporation with respect to shares of any class or series if (A) under the  
485 terms of the corporate action approved by the shareholders there is to  
486 be distributed to shareholders in cash its net assets, in excess of a  
487 reasonable amount reserved to meet claims of the type described in  
488 sections 33-886 and 33-887, (i) within one year after the shareholders'  
489 approval of the action, and (ii) in accordance with their respective  
490 interests determined at the time of such distribution, and (B) the  
491 disposition of assets is not an interested transaction;

492 (4) An amendment of the certificate of incorporation with respect to  
493 a class or series of shares that reduces the number of shares of a class  
494 or series owned by the shareholder to a fraction of a share if the  
495 corporation has the obligation or right to repurchase the fractional  
496 share so created; [or]

497 (5) If the corporation is not a benefit corporation, as defined in  
498 section 3 of this act, (A) an amendment of the certificate of  
499 incorporation to state that the corporation is a benefit corporation, (B)  
500 consummation of a merger to which the corporation is a party in  
501 which the surviving entity will be a benefit corporation or in which  
502 shares in the corporation will be converted into a right to receive  
503 shares of a benefit corporation; or (C) consummation of a share  
504 exchange to which the corporation is a party and the shares of the  
505 corporation will be exchanged for shares of a benefit corporation; or

506 [(5)] (6) Any other merger, share exchange, disposition of assets or  
507 amendment to the certificate of incorporation to the extent provided by  
508 the certificate of incorporation, the bylaws or a resolution of the board  
509 of directors.

510 (b) Notwithstanding subsection (a) of this section, the availability of  
511 appraisal rights under subdivisions (1) [, (2), (3) and (4)] to (5),  
512 inclusive, of subsection (a) of this section shall be limited in accordance  
513 with the following provisions:

514 (1) Appraisal rights shall not be available for the holders of shares of  
515 any class or series of shares which is:

516 (A) A covered security under Section 18(b)(1)(A) or (B) of the  
517 Securities Act of 1933, as amended;

518 (B) Traded in an organized market and has at least two thousand  
519 shareholders and a market value of at least twenty million dollars,  
520 exclusive of the value of such shares held by the corporation's  
521 subsidiaries, senior executives, directors and beneficial shareholders  
522 owning more than ten per cent of such shares; or

523 (C) Issued by an open-end management investment company  
524 registered with the Securities and Exchange Commission under the  
525 Investment Company Act of 1940 and may be redeemed at the option  
526 of the holder at net asset value.

527 (2) The applicability of subdivision (1) of this subsection shall be  
528 determined as of: (A) The record date fixed to determine the  
529 shareholders entitled to receive notice of the meeting of shareholders  
530 to act upon the corporate action requiring appraisal rights; or (B) the  
531 day before the effective date of such corporate action if there is no  
532 meeting of shareholders.

533 (3) Subdivision (1) of this subsection shall not be applicable and  
534 appraisal rights shall be available pursuant to subsection (a) of this  
535 section for the holders of any class or series of shares (A) who are  
536 required by the terms of the corporate action requiring appraisal rights  
537 to accept for such shares anything other than cash or shares of any  
538 class or any series of shares of any corporation, or any other  
539 proprietary interest of any other entity, that satisfies the standards set  
540 forth in subdivision (1) of this subsection at the time the corporate  
541 action becomes effective, or (B) in the case of the consummation of a  
542 disposition of assets pursuant to section 33-831, unless such cash,  
543 shares or proprietary interests are, under the terms of the corporate  
544 action approved by the shareholders, to be distributed to the

545 shareholders, as part of a distribution to shareholders of the net assets  
 546 of the corporation in excess of a reasonable amount to meet claims of  
 547 the type described in sections 33-886 and 33-887, (i) not later than one  
 548 year after the shareholders' approval of the action, and (ii) in  
 549 accordance with their respective interests determined at the time of the  
 550 distribution.

551 (4) Subdivision (1) of this subsection shall not be applicable and  
 552 appraisal rights shall be available pursuant to subsection (a) of this  
 553 section for the holders of any class or series of shares where the  
 554 corporate action is an interested transaction.

555 (c) Notwithstanding any other provision of this section, the  
 556 certificate of incorporation as originally filed or any amendment  
 557 thereto may limit or eliminate appraisal rights for any class or series of  
 558 preferred shares, but any such limitation or elimination contained in  
 559 an amendment to the certificate of incorporation that limits or  
 560 eliminates appraisal rights for any of such shares that are outstanding  
 561 immediately prior to the effective date of such amendment or that the  
 562 corporation is or may be required to issue or sell thereafter pursuant to  
 563 any conversion, exchange or other right existing immediately before  
 564 the effective date of such amendment shall not apply to any corporate  
 565 action that becomes effective within one year of that date if such action  
 566 would otherwise afford appraisal rights.

567 (d) Where the right to be paid the value of shares is made available  
 568 to a shareholder by this section, such remedy shall be the exclusive  
 569 remedy as holder of such shares against the corporate actions  
 570 described in this section, whether or not the shareholder proceeds as  
 571 provided in sections 33-855 to 33-872, inclusive."

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2013	New section
Sec. 2	October 1, 2013	New section
Sec. 3	October 1, 2013	New section

Sec. 4	<i>October 1, 2013</i>	New section
Sec. 5	<i>October 1, 2013</i>	New section
Sec. 6	<i>October 1, 2013</i>	New section
Sec. 7	<i>October 1, 2013</i>	New section
Sec. 8	<i>October 1, 2013</i>	New section
Sec. 9	<i>October 1, 2013</i>	New section
Sec. 10	<i>October 1, 2013</i>	New section
Sec. 11	<i>October 1, 2013</i>	New section
Sec. 12	<i>October 1, 2013</i>	New section
Sec. 13	<i>October 1, 2013</i>	New section
Sec. 14	<i>October 1, 2013</i>	New section
Sec. 15	<i>October 1, 2013</i>	New section
Sec. 16	<i>October 1, 2013</i>	33-856